



# RO POD episode 59 – How to use the Model Rules

---

## Speaker Key

AN	Unidentified announcer
JC	James Cooper
EA	Eve Anderson

**AN:** Welcome to RO pod: Talking about governance of registered organisations with the Registered Organisation Services Branch at the Fair Work Commission, the official podcast about the regulation of unions and employer associations. In this podcast we'll share essential information, uncover handy hints and tips and reveal our best tools for proactive compliance with the complex legislative requirements.

Don't forget to subscribe and see how RO pod can help you and your organisation.



**00:00:44**

**JC:** Hello and welcome to RO pod. I'm James Cooper, an Adviser in the Education and Advice Team in the Registered Organisations Services Branch at the Fair Work Commission. Today we're discussing the Model Rules, what they are, what they aim to do, how they can help, and what to look out for. If you're an officer or staff member who has ever stared at a rule book and wondered, 'Is this practical? Is this compliant?', this episode is designed for you. I'm joined by



Fair Work  
Commission

Eve Anderson, Senior Adviser in our Rules Team and one of the key people behind producing the Model Rules. Eve, thanks for being here today.

**EA:** Thanks, James.



**00:01:18**

**JC:** Let's start at the beginning. For any listeners that are new to rules, maybe they've just stepped into a role in a registered organisation. When they hear 'Model Rules,' what should they picture? A stack of legal clauses? A template? Or a teaching resource?

**EA:** Well James, it's really all of the above! Think of the Model Rules as a full, plain-language rule book you can adopt, learn or draw from. And each rule comes with explanations in the form of annotations. So for example, they include rules about how to join the organisation, committees that manage the organisation, how committee members are elected, plus many more. So, if you are thinking about changing your election rules, for example, you can look at the model election rules and see if they help. But I think it's equally important to know that the Model Rules can be a help even if you're NOT changing your rules. If you have a rule you aren't sure you understand or you're having trouble applying, the Model Rules can explain all the requirements and important case law around that type of rule as well.

They've been drafted to comply with *the Fair Work (Registered Organisations) Act 2009*, or the 'RO Act' as it's commonly known, and with key case law as well. And we have worked with the Australian Electoral Commission on the model election rules.

So you don't have to use the Model Rules, but if you do, you'll save time, you'll avoid common drafting issues, which may cause certification problems later.

But a warning James, you can't simply cut and paste all or part of the Model Rules, as they may not necessarily fit into your existing rules. So, while one size fits most, they need to be carefully analysed and drafted to suit your organisation. So before voting on any changes to your rules, even Model Rules, we strongly recommend that you seek the advice of the Commission.



Fair Work  
Commission



**00:03:17**

**JC:** It's good to know that the Commission will provide expert advice regarding draft alterations to rules. And you have to consider and understand how a rule will align with your current rules, and the Commission can assist with that. And flexibility matters, some organisations want a full refresh, others just want to patch specific gaps.

Now Eve, I understand that there are two versions of the Model Rules, can you walk us through what they are and how our listeners know which ones to use?

**EA:** Sure. There's one for organisations with branches, which is called the 'federated version' and there's one for organisations without branches, called the 'unitary version'. So choosing the right one depends on how your organisation is structured. So if you have branches, or plan to have branches, start with the federated rules because they include national and branch governance, branch finances, and the relationship between the levels. So if you operate as a single entity with no branches, the unitary rule book is the one you should be looking at.



**00:04:18**

**JC:** So, if you're operating with branches, you need the federated rule book, got it. Let's talk about how they can help. Beyond convenience, why do Model Rules matter for governance and compliance?

**EA:** Oh because the law around organisations' rules is quite complex and getting it wrong can have significant consequences James. Poorly drafted rules can lead to disputes, delays, and sometimes breaches of the RO Act. So the Model Rules were designed to elevate good governance, embed clear powers and duties, member participation, democratic control, and standardise processes like meetings, elections, and finances. That means fewer headaches for officers and staff, better transparency for members, and stronger compliance overall.



Fair Work  
Commission



**00:05:06**

**JC:** We see that quite a bit, don't we? Ambiguous rules about quorums or vacancies derailing meetings and elections. When governance is tidy, roles are clear, processes documented, that allows officers and staff to focus on members, not technicalities. Can you give us a practical example that our listeners may be able to relate to?

**EA:** Yes, I can give you two examples, James. We have seen rules that do not set a quorum for meetings of members or governing bodies. This means, that for a meeting to be valid, everyone must be there. So we saw in one organisation the rules did not provide for a quorum. So it wanted to change its rules to provide for a quorum, but it couldn't get everyone there to change its rules to bring in a quorum rule. It was a real catch-22 for the organisation. So you really don't want to be in that situation.

Also, another example, casual vacancies. If your rules don't explain who fills a vacancy, how to fill the vacancy, and how long they hold office, confusion and disputation can result. For example, if your rules do not specify that a person filling a vacancy holds office for only the remainder of the term, it may be that person commences a full new term, resulting in the election for that office being out of sync with all the other elections. Or it could lead to potential disputes about whether their actions while they purportedly held office were valid. So the Model Rules set out a clear pathway, so vacancies are filled fairly and meet the requirements of the RO Act.



**00:06:48**

**JC:** Yes, we've seen avoidable tensions when casual vacancy rules are ambiguous, and having clear vacancy rules stop those collisions. Let's go on to talk about day-to-day usefulness. How can staff and officers who may already be incredibly busy use them without feeling overwhelmed? What practical ways can they start?



Fair Work  
Commission

**EA:** Yeah James, I can understand that when you first see the Model Rules and accompanying resources you will probably feel like you don't know where to begin. So your very first port of call is the User Guide to the Model Rules, which you should open before or when you first look at the Model Rules themselves. The User Guide walks you through how to read the Model Rules and the annotations by explaining the layout.

From there, it depends what you are looking to do with your organisation's rulebook. A new organisation can adopt the whole rule book. But they also need to consider transitional rules. For example, who will be the first office holders, when will the first elections take place, how they transition to the new structure. In other words, the new organisation will need to develop transitional rules pertinent to its situation, and the Commission can provide advice about them.

For current organisations though, they may be looking to update or refresh rules that are older, outdated, or too complex, and they can use the Model Rules to modernise language and structure by lifting selected parts. Or they might be looking to solve a specific problem or plug a gap by taking a single rule.

The rules were designed as modular 'capsules'. You can adopt a single rule on, say, for example plebiscites, copy a part on meetings, or take the entire book. Just make sure any adopted rule integrates with your definitions and structures, otherwise you can introduce contradictions.



**00:08:46**

**JC:** Yes, that modular approach is powerful. I've heard some organisations use the Model Rules as a benchmark, even when they're not copying text verbatim. So, that's the User Guide, but how does the Companion Reader fit in with the Model Rules and the User Guide?

**EA:** The Companion Reader is for deeper context on important topics, from branches, democratic control, officers and more. And it provides general advice about things you need to consider when altering rules. For example, if you're looking at changing your rules about member misconduct, it outlines the types of misconduct that Courts have previously considered.



Fair Work  
Commission

Rules that allow members to be punished for disobeying resolutions have generally been found to place an unreasonable or unjust condition on members. But a rule that ensures a member has been informed of the resolution and knowingly disobeys the resolution may be OK. So the Companion Reader provides information about rules which discipline members, the types of rules that have been upheld, and those that have not, and refers to some of the relevant case law.

The Companion Reader provides these types of explanations and refers to some of the relevant case law.



**00:10:05**

- JC:** That sounds like an invaluable resource for our listeners. You previously mentioned annotations, what role do they play in the Model Rules?
- EA:** Good question James. The annotations are your ‘why’. They explain legal requirements, common mistakes, and best practice suggestions. For example, if you look at the annotations of the committees of management rule, the annotation to this rule explains that your rules must provide for such a committee. It talks about how it doesn’t have to be called a committee of management, you might for example call it the Board. The annotation explains that the model committee of management rule is an example only, with electorates based on members in different States and territories. You can decide to have different electorates and different formula for deciding the number of representatives from each electorate. For instance, you could have representatives from different industries or other classes of membership, but they must be elected by members. The annotation notes that it is important for the committee to be representative of members, for example you can’t have rules which allow one group of members to control the organisation without the opportunity for the voice of other members to be heard. If you need more information about these issues, then you can go to the Companion Reader. That way you learn as you draft, and you avoid copying something that might not fit your organisation or might breach the RO Act.



The annotations also flag whether text is required or suggested, and you can adapt it carefully. These flags allow you to understand what must not change, what you can change and what the parameters of any change might be. For example, by reading the annotation to the casual vacancy rule, you know that you don't have to have a casual vacancy rule, but that it is a good idea to have one for good governance: you don't want to be hamstrung because you can't fill casual vacancies in your governing structures. You will also learn that if you decide to have a casual vacancy rule, the RO Act places strict limits on how you can fill it.



**00:12:20**

**JC:** So, the annotations help people understand the intent and the legal guardrails. Let's slow down a bit though, what does 'mandatory: required text' and 'mandatory: suggested text' mean in practice Eve?

**EA:** When a rule is marked 'mandatory: required text', it means the subject matter must be in your rules, and with the exact text, as the wording is tightly connected to the legislation or decisions, and changing it can make it non-compliant. For example, the rule about loans, grants and donations is a mandatory rule, you must have such a rule, and the text is mandatory, you can't deviate from the text as set out in its model rule, except perhaps to refer to the relevant committee and office holder. For instance, the model rule refers to Executive, whereas your committee might be a Board, therefore you need to refer to the Board in the loans, grants and donations rule. But no other changes should be made to the rest of this rule.

'Mandatory: suggested text' means you must cover the topic, but you can have some flexibility in phrasing. For example, you must have rules about summoning meetings, but you can decide how meetings are summoned and draft rules to suit your preferences. The text in the model rules about summoning meetings is a suggestion only. You can use wording that reflects your preferences, and still keep compliance intact.



Fair Work  
Commission



**00:13:53**

**JC:** Eve that clarity is really important. Okay, say I'm updating our rule book. What does my checklist look like?

**EA:** Thanks James, I recommend a ten-point plan:

1. First of all, as I previously mentioned, read the User Guide.
2. Second, you pick the right rule book, either the federated or unitary, as we discussed earlier.
3. Third, check the rule type: is it mandatory, recommended, or optional.
4. Fourth, adapt carefully and ensure changes 'fit' with the rest of your rules, things like numbering, cross-references, definitions, names of committees and office holders, and timelines with other rules (for instance election rules). Also, are there any transitional requirements? For example, are you changing your governing structures, what happens to existing office holders and when does the new structure come into place?
5. Fifth, don't copy the annotations into your rule book; they're guidance only.
6. Six, and most importantly, ask the Commission for advice about your draft alterations.
7. Seven, consider the Commission's advice, and modify your draft alterations as you see fit, they are your rules.
8. Eight, check your current rules to see what you have to do to alter your rules. I'll talk about this a little later on in this podcast.
9. Nine, check with the Commission about what you have to do to alter your rules BEFORE you alter them, that's touched on later in this podcast as well.
10. Lastly, alter your rules in accordance with the steps required in your rule book.



**00:15:32**

**JC:** Thanks Eve. You've mentioned three different rule types there. We've already spoken about the mandatory rule type, but can you take us through what the other two are?



Fair Work  
Commission

**EA:** Yeah sure James. In addition to mandatory rules you have ‘recommended’ rules, which aren’t required by the RO Act, but they solve common problems, such as defining when a member becomes unfinancial.

Other recommendations are to include tables at the start of your election rules, which set out the steps, the timelines, and the offices to be elected. This enables your office bearers, members and the returning officer to get a picture of the entire election process. It should also help your organisation to lodge prescribed information for an election. And this is explained in the annotations to the election rules.

It’s strongly recommended that you have these types of rules.

These are different to ‘optional’ rules. These aim to add clarity (for example, an overview of the governance arrangements, or how a part of the rulebook is structured). Other types of ‘optional’ rules introduce features, for instance, life membership. You can use these if that’s what you want, but you don’t have to.

Another optional rule is the dual membership rule for a related state association. This is much more complicated. Some organisations, or branches of organisations, have a counterpart association registered under state law. These counterparts often have the same (or close to the same) members and the same office holders as your organisation, and the two entities in practice operate as though they are one entity. It’s important for these types of arrangements to be codified in your rules. There’ve been far too many cases in the Courts regarding disputes over ownership of assets and to which body the member belongs when relationships between the organisation and the state counterpart association go awry. So although this is an optional rule, it is highly recommended if you have financial and membership arrangements with a state counterpart association.



Fair Work  
Commission



**00:17:44**

**JC:** So that split in rule types helps organisations understand where creativity is safe versus risk. Even, the way we work, including meetings, has changed a lot post-pandemic, and hybrid and online formats are now commonplace. What's built into the Model Rules about meetings?

**EA:** The meeting parts of the Model Rules allow for electronic participation and for the ability to hold meetings as a series of meetings. So this means that means for national or branch executives and conferences and general meetings of members can meet face-to-face or by electronic or hybrid methods, and members can engage without being limited by geography.

A series of meetings means an organisation can conduct a meeting of members at different places at different times. For example, in the University sector, a meeting of members in a particular university branch of the relevant union could be held at each campus on different dates. The meeting is the combination of all the campus meetings. So, in the model rules a quorum is not needed at each campus. The quorum is needed across the total number of members who attended the complete series of meetings.



**00:18:59**

**JC:** Yes, from what we've seen, the biggest win is accessibility, members in regional areas can participate without travel barriers. There's also no more guessing whether a split-location meeting counts in meeting a quorum.

Let's turn to elections, which is always a hot topic, and is contained in Appendix B to the Model Rules.

**EA:** That's right, Appendix B is your roadmap, and it was part of our second release of the Model Rules due to its size and complexity. It covers postal and attendance ballots, nominations, candidate statements, scrutineers, counting methods, incompatible offices and more. It's also



Fair Work  
Commission

designed so the Australian Electoral Commission can conduct elections efficiently and transparently, so your officers and members know exactly what to expect.



**00:19:48**

**JC:** As you've already mentioned, it lays out timelines and requirements really simply in tables at the start of the election rules, so everyone can be prepared and plan accordingly. When I was looking at Appendix B, I saw a term that sounds quite technical, can you tell us what an 'incompatible office' is?

**EA:** Yeah James, it's about checks and balances. You don't want one person holding two roles that should oversee each other. For example, one person should not hold the office of President and Secretary at the same time. For other offices, there may be no issues with one person holding two offices. For example, it is quite usual for a Branch Secretary to also hold office on the national executive, and other national committees. In fact, I suggest it goes to good governance to have leading Branch office holders on the national bodies.

So the Model Rules explicitly spell out which offices are incompatible, such as the President and Secretary. It also sets the election order so nominations resolve cleanly if someone is elected to a higher office. This means a member can nominate for multiple offices, but you can only be elected to one. For example, in the model rules, the Secretary is the higher office. if a person has nominated for both Secretary and President and they are successfully elected to the office of Secretary, they are deemed not to be a candidate for the office of President. Any votes that they received for the office of President are not counted by the returning officer, but instead the second preference on the ballot paper becomes the first preference for that voter.



Fair Work  
Commission



**00:21:30**

**JC:** One thing we hear a lot about is ‘democratic control’. What does that look like in a rule book?

**EA:** It’s an overarching theme, not a single rule. It includes things like having committees which are regularly elected, general meetings where members can requisition agenda items, general meetings and plebiscites that can bind committees, and representation ratios that balance big and small electorates on governing bodies. The Model Rules include all of that so members can check, direct, and restrain committees in a practical way.



**00:22:04**

**JC:** That’s a great point, Eve. I know you have talked about disciplining members, which can be a sensitive issue. Do the Model Rules cover disciplining officers?

**EA:** Yes, they do, and you’re right, disciplining officers can be a real sticking point in registered organisations. The RO Act limits grounds for removal from office to certain serious matters. Things like misappropriation of funds, substantial breaches of the rules, gross misbehaviour or gross neglect of duty, or ceasing to be eligible. Your rules cannot go beyond these grounds.

Also case law has established that an officer is entitled to procedural fairness before being removed from office. So the Model Rules set out a process that must be followed before someone can be removed from office, which aims to achieve procedural fairness. The steps include written notification of the complaint made against the officer, a reasonable opportunity for the officer to answer the complaint, the right to be heard and an avenue for appeal.



**00:23:09**

**JC:** Process and proportionality are always the key. When people see a fair pathway, objective grounds and a right to respond, they’re more likely to accept outcomes.



Fair Work  
Commission

Eve, can we discuss what happens when an organisation wants to change its rules. What should they look out for when it comes to their rule altering process?

**EA:** Ah well there's a few things to consider James. First of all, as I've already mentioned, please seek advice from the Commission, not just about your proposed changes, but about your rule altering procedure. Our Rules Team has developed an organisation specific checklist for each organisation about what we think it must do to alter its rules. These are really 'discussion' documents, if you disagree with us about the steps required to alter your rules, let's talk about it and get it resolved before you alter your rules. You don't want your alterations to be refused by the Delegate because you didn't follow your rules!

Also, if you follow the ten-point plan that I suggested earlier, consideration of rule alterations by the Delegate will likely be faster, but don't expect immediate certification. The Delegate must consider all the factors set out in section 159 of the RO Act. Nonetheless, the time taken to consider the alterations should be faster than consideration of alterations not based on the Model Rules.

The next thing I wanted to mention is that adopting the Model Rules doesn't mean automatic certification of your rule alterations. The Delegate needs to consider other matters, like how you altered your rules, how the rules fit in with the rest of your rules, and whether, in the context of your organisation, the rules still comply with the RO Act.



**00:24:57**

**JC:** So, an example of whether the rules still comply with the RO Act might be when an organisation changes its structure. The Delegate still needs to consider, among other things, whether the change ensures a representative structure for your organisation, what happens to existing office holders and how it fits with other rules, such as election rules.

Eve, what if an organisation updated their rules last year, should they still look at the Model Rules?



Fair Work  
Commission

**EA:** Absolutely James. They can use them to analyse and problem solve anything you've come across that may have caused issues either prior to or following your update last year. Compare sections like elections, meetings, finance approvals, and discipline processes and so on. If your rules are more complex than they need to be, or they don't provide practical member control mechanisms, lift the relevant Model Rules sections and modify as needed for your organisation.



**00:25:52**

**JC:** And don't forget, get advice from the Commission before altering your rules.

Do you have any specific advice for federated organisations about how they deal with branch rules?

**EA:** Yes James, I'd suggest you use universal branch rules. That is, one set of rules that applies to all branches. That way it keeps consistency, simplifies training, and ensures the national and branch rules stay aligned. Avoid multiple rule books across branches unless there's a very strong reason, they're harder to administer and harder to keep compliant. Remember, if a branch does not comply with the rules or its legal obligations, it's the organisation as a whole, not the particular branch, that is non-compliant. If legal proceedings commence, it's the organisation, not the branch, against which proceedings are taken.



**00:26:46**

**JC:** Do you have any advice for adopting a Model Rule to your rules without tripping over cross-references or avoiding other unintended consequences?

**EA:** Ah yeah James, this time I have a five-point plan:

1. First, read the annotation to the Model Rule, as it will explain context and guardrails.
2. Second, paste the rule into your book with the changes tracked.



Fair Work  
Commission

3. Thirdly, immediately check the numbering. If the numbers of existing rules have been changed, you will need to check whether there are any cross-references to the renumbered rules.
4. Fourth: look at definitions, for example, do references to 'financial member' match your current definition? If you change rules, such as what is a financial member you will need to consider the impact on existing members.
5. Fifth: consider timing, for example, does the change operate on your financial year, meeting cycle or election timelines?



**00:27:46**

**JC:** That's a really helpful plan to follow. What if we need something that isn't in the Model Rules, such as reserving offices for particular member cohorts?

**EA:** Ah good question James. In this instance you should contact the Commission for advice particular to your organisation, and you may also wish to seek specialist or legal advice. Some measures can be certified in limited circumstances, but they require tailored drafting and submissions from you that consider democratic control, discrimination risks, and practical viability. The Companion Reader outlines the issues to consider, and the rules team can help you test options before you draft.



**00:28:34**

**JC:** Before we wrap up, can you give us three practical tips officers can implement?

**EA:** Yes.

1. Do a reality check: do you understand your rules, in particular, what obligations are imposed on you and the organisation? If you don't, check whether the Model Rules can help improve clarity in your rulebook.



Fair Work  
Commission

2. Do your rules meet your organisation's requirements? For example, is the structure representative of your organisation? Is the balance between membership control and the efficiency and effectiveness of your organisation appropriate? If not, check whether the Model Rules offer more applicable rules.
3. Do your rules meet the requirements of the RO Act? If you are unfamiliar with the requirements, approach the Commission for assistance.

And James, I know you only asked for three, but I'm going to stretch the friendship and add number 4: do you know how to change your rules? Check your understanding with the Commission's Rules Team.



**00:29:41**

**JC:** All resources can be found on the Commission's website. There you'll find the Model Rules User Guide, Companion Reader, and both federated and unitary rule books. The rule books are available in both Word and PDF formats. Make sure you contact the Commission to discuss your draft and for a copy of the checklist of steps required to alter your rules.

Eve, thanks for joining us and for walking us through the Model Rules.

**EA:** Thanks, James. I hope listeners found it useful and now feel confident using them.



**00:30:10**

**JC:** And thank you to our listeners for joining us today. Have a safe and happy holiday season, and we hope you'll join us again next time.

**AN:** RO pod is the official podcast of the Registered Organisation Services Branch of the Fair Work Commission. It is copyright to the Commonwealth of Australia. The opinions expressed in RO pod are the opinions of the particular speaker and not necessarily the opinions of the Commission.



Fair Work  
Commission

This information is general and is not intended to be comprehensive. It is designed to assist in gaining an understanding of the relevant provisions of the legislation, the Registered Organisation Services Branch of the Commission and its work.

The Commission is not able to provide legal or accounting advice.

For further information please see the materials on our website [www.fwc.gov.au](http://www.fwc.gov.au) or contact us at [regorgs@fwc.gov.au](mailto:regorgs@fwc.gov.au).